

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**MARY JONES and JOSEPH ALFORD,**

**Plaintiffs,**

**V.**

**THOMAS FLATHMANN,**

**Defendant.**

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**CIVIL ACTION NO.: 1:06-CV-585-WHA**

**UNOPPOSED MOTION FOR EXTENSION OF DEADLINE TO FILE RESPONSIVE  
PLEADING AND REPORT OF PARTIES PLANNING MEETING**

COMES NOW, Defendant Thomas Flathmann in the above-styled cause, and respectfully requests an extension through and until December 24, 2007, in which to file his Answer or first responsive pleading with this Court and in which to file the parties Report of Parties Planning Meeting, and as grounds therefore state as follows:

1. By Order of this Court dated November 27, 2007, (Doc# 59), Defendant Thomas Flathmann's Answer is currently due in this case on or before December 10, 2007.
2. Pursuant to the prior agreement of the undersigned with plaintiffs' counsel to recommend to the defendant that he accept service pursuant to a FRCP 4(d) request for waiver of service of process or incur the expenses later incurred in obtaining service of process, on November 9, 2007, the undersigned received a FRCP 4(d) waiver of service of process from plaintiffs' counsel dated November 7, 2007.

3. As agreed, the undersigned contacted the defendant and sent the defendant by facsimile or e-mail a copy of the notice and complaint as well as the waiver of service form. On November 20, 2007, the defendant was in Dothan, Alabama visiting friends before Thanksgiving and while in town, executed the waiver of service (Doc.# 58) which was filed with the Court that same day.

4. Absent this Court's order dated September 27, 2007 (Doc.# 59), the defendant pursuant to FRCP 4(d)(3) would ordinarily "need not serve an answer to the complaint until 60 days after the request was sent." As the request for waiver is dated November 7, 2007, the ordinary due date for filing an answer in this case would have been January 6, 2007.

5. Defendant Thomas Flathmann is currently a resident of South Carolina and until this week has been unavailable to meet with the undersigned to discuss the facts and circumstances out of which plaintiffs' complaint arises. Mr. Flathmann is no longer employed as a deputy sheriff of the Sheriff of Houston County, Alabama.

6. The other deputy sheriffs believed to possess information regarding the facts made the basis of plaintiffs' complaint have been unavailable to meet with the undersigned as they have been in special (SRT) training all of this week.

7. Due to the unavailability of said deputy sheriffs, the undersigned has been unable to obtain all of the documentation necessary to adequately prepare a response to the plaintiffs' complaint.

8. The undersigned counsel for defendant has discussed this motion for extension of time for the filing of a responsive pleading and for the filing of the Report of Parties Planning Meeting with counsel for the plaintiffs. Counsel for plaintiffs does not oppose and is in agreement for this motion to be granted by the Court.

9. The extension of the above referenced deadlines in this matter to on or before December 24, 2007, will not prejudice any party and all parties agree to said extension of time.

10. As a part of the discussion with plaintiffs' counsel, the undersigned informed plaintiffs' counsel, Michael Guy Holton that once sufficient information is available to the undersigned, it is the intent of the defendant to file a FRCP 12(b) and FRCP (d) motion to dismiss or in the alternative for summary judgment under FRCP 56 with supporting brief, asserting among other defenses, the defense of qualified immunity. It is also defendant's intent to simultaneously file a motion to stay all discovery in this case with supporting brief, pending a ruling by the Court on said motion(s).

WHEREFORE, Defendant Thomas Flathmann respectfully requests that the deadlines for filing an answer or motion in lieu thereof and for the filing of the Report of Parties Planning Meeting be extended to on or before December 24, 2007.

Dated this 7th day of December, 2007.

Respectfully submitted,

s/Gary C. Sherrer  
GARY C. SHERRER (SHE016)  
Attorney for Thomas Flathmann

OF COUNSEL

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**CERTIFICATE OF SERVICE**

I, Gary C. Sherrer, hereby certify that on this 7th day of December, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard H. Ramsey, IV, Esq.  
P.O. Box 6595  
Dothan, Alabama 36302

Michael Guy Holton, Esq.  
2779 Old Carter Hill Road  
Pike Road, Alabama 36064

**s/Gary C. Sherrer**  
OF COUNSEL